UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA	:	**CASE NO. 1:13-cr-00141**
	:	
	:	**Hon. Sandra S. Beckwith**
vs.	:	
	:	
	:	**MOTION TO FILE UNDER SEAL**
GLEN GALEMMO	:	
	:	

The United States of America by and through its attorney, Emily N. Glatfelter, moves this Honorable Court for an order sealing or limiting access to exhibits 2-4 and 6-7 attached to Defendant Galemmo's affidavit. (D.E. 141) As explained below, these exhibits contain the personal financial information of victims.

BACKGROUND

On January 15, 2014, Defendant Glen Galemmo, entered pleas of guilty to a two-count Information (D.E. 1), charging him in Count 1 with Wire Fraud, in violation of 18 U.S.C. § 1343, and in Count 2, with Money Laundering, in violation of 18 U.S.C. § 1956. (D.E. 2; 7)

On August 28, 2014, the Court sentenced Defendant Glen Galemmo to 188 months of imprisonment and ordered him to pay $34,599,085.46 in restitution for operating a large scale Ponzi-scheme that lasted for more than eight years. (D.E. 66) From 2006 to July 2013, Defendant Galemmo received approximately $87 million cumulatively from individual investors, trusts, charitable organizations, and retirement accounts. (D.E. 2, p.12) During this time period, Defendant Galemmo also received approximately $29 million from some of these investors in the form of short term loans. *Id.* The vast majority of funds were never invested in anything. *Id.* Rather, the funds were paid to other investors in the form of principal and/or interest payments or spent by Defendant Galemmo to finance other businesses or pay his personal expenses. *Id.*

Defendant Galemmo filed *pro se* a motion to vacate his sentence pursuant to 28 U.S.C. § 2255. (D.E. 125) In his motion, Defendant Galemmo alleged ineffective assistance of counsel, in part, for failing to file a direct appeal and/or failing to pursue certain claims on appeal. *Id*. However, Galemmo filed his petition 15 months after his judgment became final. Thus, his petition was not timely under section 2255(f), unless exercising due diligence he did not learn of the alleged failure to file until the last 12 months preceding his petition.

Given that Galemmo did not provide a factual basis to support the timing of his motion, the United States moved to dismiss his petition. (D.E. 128) Galemmo's response to the United States' motion to dismiss also did not address the timing of his petition. Accordingly, the Court issued an Order on March 14, 2016, directing Galemmo to file an affidavit under penalty of perjury "stating when he received trial counsel's letter informing him that no notice of appeal had been filed." (D.E. 134)

On April 12, 2016, Defendant Galemmo filed an affidavit in response to the Court's March 14, 2016 Order. (D.E. 141) Defendant Galemmo attached several exhibits to his affidavit.

ANALYSIS

The majority of exhibits that Defendant Galemmo attached to his affidavit contain sensitive financial information regarding various victims in the case, some of whom have filed civil lawsuits against Defendant Galemmo. Some of the exhibits even bear the words, "Confidential – Subject to Protective Order." For example, Exhibit 7 of Defendant Galemmo's filing contains the complete names of individual victims, amounts allegedly invested, and partial account numbers. Some of the documents attached as Exhibit 7 state that they also are "Confidential – Subject to Protective Order."

Defendant Galemmo's filings are public and available to anyone with access to pacer. Victims of Galemmo's Ponzi scheme have contacted their attorney, who in turn has contacted undersigned counsel about these exhibits, requesting that the United States assist them in protecting their sensitive information. Therefore, the United States requests that the Court exercise its discretion to seal Exhibits 2-4 and 6-7, or block access to these documents to anyone other than the United States and Defendant Galemmo. Subdivisions (d) and (e)(2) of Federal Rule of Criminal Procedure 49.1 permit the Court to seal sensitive documents or limit access to them for good cause. The 2007 Committee Notes to Rule 49.1 explain that "it may well be necessary in individual cases to prevent remote access by nonparties to any part of an account number . . . . In such cases, protection may be sought under subdivision (d) or (e)." Accordingly, the United States respectfully requests that the Court either seal Exhibits 2-4 and 6-7, or block access to these documents to anyone other than the United States and Defendant Galemmo.

Respectfully submitted,

BENJAM IN C. GLASSMAN
Acting United States Attorney

s/ Emily N. Glatfelter
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Motion to File Under Seal* was electronically filed via the Court's CM/ECF system this 13th day of April, 2016, and has been electronically served upon all counsel of record. A copy has also been served via First Class Certified Mail upon Mr. Glen Galemmo, Pro Se, Inmate No. 72083-061, LSCI Butner, P.O. Box 999, Butner, North Carolina 27509.

s/ Emily N. Glatfelter
EMILY N. GLATFELTER (0075576)
Assistant United States Attorney